

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

IRA BARCLAY,

Petitioner,

v.

Civil Case No. 06-10255

Crim. Case No. 89-80507

UNITED STATES OF AMERICA,

Honorable Patrick J. Duggan

Respondent.

---

**ORDER TRANSFERRING SUCCESSIVE § 2255 PETITION  
TO THE SIXTH CIRCUIT COURT OF APPEALS**

At a session of said Court, held in the U.S.  
District Courthouse, Eastern District  
of Michigan on March 9, 2006.

PRESENT: THE HONORABLE PATRICK J. DUGGAN  
U.S. DISTRICT COURT JUDGE

Following a jury trial, Petitioner Ira Barclay was found guilty of conspiracy to distribute heroin and cocaine. On February 12, 1990, this Court sentenced Petitioner to 360 months imprisonment. On December 23, 1998, Petitioner brought his first § 2255 motion which was denied by this Court on April 27, 1999. Presently before the Court is Petitioner's second Motion to Vacate Sentence pursuant to 28 U.S.C. § 2255, filed on January 19, 2006.

Under 28 U.S.C. § 2255, a petitioner cannot file a second or successive § 2255 petition in the district court unless the petitioner first obtains permission to do so from the

court of appeals pursuant to the certification procedures set out in 28 U.S.C. § 2244.

There is nothing in the record to indicate that Petitioner's Motion was certified by a panel of the Sixth Circuit. When a second or successive § 2255 petition is filed in a district court without §2244(b)(3) authorization from the appropriate court of appeals, the Sixth Circuit Court of Appeals has instructed that "the district court shall transfer the document to [it] pursuant to 28 U.S.C. § 1631." *In re Sims*, 111 F.3d 45, 47 (6th Cir. 1997).

Therefore, the Court shall transfer the document to the Sixth Circuit Court of Appeals pursuant to 28 U.S.C. § 1631.

Accordingly,

**IT IS ORDERED** that Petitioner's successive Motion to Vacate Sentence pursuant to 28 U.S.C. § 2255, filed on January 19, 2006, is hereby **TRANSFERRED** to the Sixth Circuit Court of Appeals.

s/PATRICK J. DUGGAN  
UNITED STATES DISTRICT JUDGE

Copies to:

Ira Barclay  
#40343-019  
P.O. Box 1000  
Milan, MI 48160

Michael C. Leibson, AUSA

